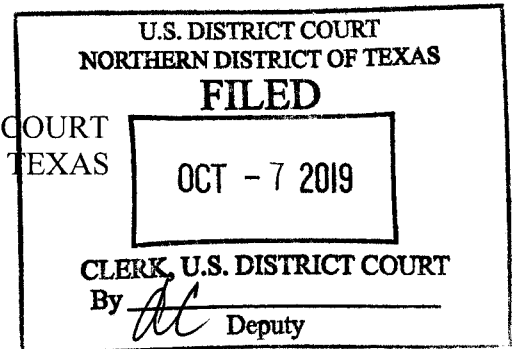


IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION



GARY WAYNE WILLOUGHBY,

Petitioner,

v.

LORIE DAVIS, Director,
Texas Department of Criminal Justice,
Correctional Institutions Division,

Respondent.

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2:19-CV-136-Z

**ORDER ADOPTING RECOMMENDATION and
DISMISSING PETITION FOR A WRIT OF HABEAS CORPUS**

On August 22, 2019, the United States Magistrate Judge entered findings and conclusions on the Petition for a Writ of Habeas Corpus. The Magistrate Judge RECOMMENDS that the petition be DISMISSED. No objections to the findings, conclusions, and recommendation have been filed. After making an independent review of the pleadings, files, and records in this case, and the findings, conclusions, and recommendation of the Magistrate Judge, the Court concludes that the findings and conclusions are correct. It is therefore ORDERED that the findings, conclusions, and recommendation of the Magistrate Judge are ADOPTED, and the Petition for a Writ of Habeas Corpus is DISMISSED without prejudice.

Considering the record in this case and pursuant to Federal Rule of Appellate Procedure 22(b), Rule 11(a) of the Rules Governing Section 2254 Cases in the United States District Courts, and Title 28, United States Code section 2253(c), the Court denies a certificate of appealability because Petitioner has failed to make "a substantial showing of the denial of a constitutional right." *Slack v. McDaniel*, 529 U.S. 473, 483 (2000). The Court ADOPTS and incorporates by reference

the Magistrate Judge's findings, conclusions, and recommendation filed in this case in support of its finding that Petitioner has failed to show (1) that reasonable jurists would find this Court's "assessment of the constitutional claims debatable or wrong," or (2) that reasonable jurists would find "it debatable whether the petition states a valid claim of the denial of a constitutional right" and "debatable whether [this Court] was correct in its procedural ruling." *Id.* at 484.

If Petitioner files a notice of appeal,

- () Petitioner may proceed *in forma pauperis* on appeal. See Federal Rule of Appellate Procedure 24(a)(3).
- (X) Petitioner must pay the \$505.00 appellate filing fee or submit a motion to proceed *in forma pauperis* on appeal.

SO ORDERED.

October 7, 2019.


MATTHEW J. KACSMARYK
UNITED STATES DISTRICT JUDGE